



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/573,483

02/13/2007

Hiroomo Kuwahara (Deceased)

KAS.074

3149

48234

7590

11/24/2009

MEREK, BLACKMON & VOORHEES, LLC
673 S. WASHINGTON ST
ALEXANDRIA, VA 22314

EXAMINER

REIS, RYAN ALEXANDER

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

11/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,483	Applicant(s) KUWAHARA (DECEASED) ET AL.	
	Examiner RYAN REIS	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 06/29/2009, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Len Tran/

Supervisory Patent Examiner, Art Unit 3752

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3752

3. Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 1,661,150 to Birkenmaier (Birkenmaier).

As to claim 4, Birkenmaier discloses a spray gun having a paint jetting part (at 61) for jetting pressure paint in atomized state and air jetting means (at end of 49) for forming a covering air flow surrounding the periphery of atomized paint jetted from the paint jetting part, whereby the pressure paint is atomized by friction to air outside the paint jetting part, comprising: a body frame (1) having a length, a front end (at 29), a rear end (at 11), and an air intake (15) adjacent to the rear end for receiving compressed air; an air ventilation path (from 9 through 5 to 49; see Figures 1, 3 and 9) for flowing the compressed air from the air intake to the air jetting means; an air valve (see page 3, lines 83-112) adjacent to the rear end for opening and closing the air ventilation path, the air jetting means being mounted at the front end of the body frame and having a ring-shaped nozzle (see Figures 5 and 6) having nozzle holes (at ends of 49) arranged at a fixed pitch toward the circumferential direction of the ring-shaped nozzle, the nozzle holes receiving air from the air ventilation path and guiding the air to rotate around the center of the ring-shaped nozzle; the paint jetting part including a paint valve (59) mounted at the center of the ring-shaped nozzle, the paint valve extending forwardly from the front end of the body frame to a paint outlet (at 61) that is positioned forward of the nozzle holes of the ring-shaped nozzle of the air jetting means (see Figures 3, 4, 5 and 7); a lever operating member (95) mounted between the front end and the rear end of the body frame for human operation; and an interlocking means

Art Unit: 3752

(97 and 99) responsive to operation of the lever operating member for opening and closing both the air valve and the paint valve (see page 4, lines 39-50).

As to claim 5, Birkenmaier discloses a bar prehension part (11) extending along and rearward of the lever operating member and having a hollow cylindrical member (see hollow portion in Figures 1 and 9) and a connecting member (13) to be connected to a paint feeding hose (7), whereby the pressure paint from the feeding hose passes through the hollow cylindrical member and reaches the paint valve (via 3 and 27), the bar prehension part adapted to be grasped together with the lever operating member.

As to claim 6, Birkenmaier discloses an air intake (15) for the air ventilation path, the air intake being positioned rearward of the bar prehension part (see Figure 1; the term "rearward" is given its dictionary definition of "located in, near, or toward the rear").

Response to Arguments

4. Applicant's arguments with respect to claims 4-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 5,395,054 to Wheeler and 6,793,157 to Lindsay et al. show paint spray guns with an air jetting means and a paint feeding hose that passes through a bar prehension part.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN REIS whose telephone number is (571)270-5060. The examiner can normally be reached on Monday through Friday 8:00am to 6:00pm EST.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/573,483

Page 6

Art Unit: 3752

/RR/

Examiner, Art Unit 3752

/Len Tran/

Supervisory Patent Examiner, Art Unit 3752